

Submitted herewith is a Submission Of Marked Up Claims in accordance with 37 C.F.R. § 1.121(c)(1)(ii).

In accordance with 37 C.F.R. 1.136(a), a one month extension of time is submitted herewith to extend the due date of the response to the Office Action dated December 18, 2002, for the above-identified patent application from March 18, 2003, through and including April 18, 2003. In accordance with 37 C.F.R. 1.17(a), authorization to charge a deposit account in the amount of \$110.00 to cover this extension of time request also is submitted herewith.

The objection to Claim 2 because of a typographical error is respectfully traversed. Claim 2 has been amended to correct the typographical error. Specifically, Claim 2 has been amended to recite a workload value. Accordingly, Applicant respectfully requests that the objection to Claim 2 be withdrawn.

The rejection of Claims 3, 19, and 35 under 35 U.S.C. § 112, second paragraph is respectfully traversed.

Applicant respectfully submits that the equation as recited in Claim 3 is correct and is the same as recited in Claims 19 and 35.

Applicant respectfully submits that the term zip group maximum recited in Claims 3, 19, and 35 is correct (see page 10, line 10 through page 11 line 14 of the specification). Also, as explained on page 7, lines 15-18 the maximum number of delivery slots for each zip group (i.e., zip group maximum) is equal to the zone maximum.

Claim 3 has been amended to depend from Claim 2, Claim 19 has been amended to depend from Claim 18, and Claim 35 has been amended to depend from Claim 34. Claims 2, 18,

and 34 supply the antecedent basis for "the step of calculating the capacity utilization" and "said respective workload utilization".

Further, Claims 6, 22, and 38 have been amended as suggested by the examiner.

For the reasons set forth above, Applicant respectfully requests that the Section 112 rejection of Claims 3, 19, 35 be withdrawn.

The rejection of Claims 1, 2, 9-11, 17-18, 25-27, 33, 34, and 41-43 under 35 U.S.C. § 102(e) as being anticipated by Mowery et al. (U.S. 5,983,198) is respectfully traversed.

Mowery et al. describe an inventory control method that monitors product level in customer storage tanks and a delivery scheduling method that utilizes the monitored tank level data. The timing of the delivery is determined by the forecasted usage of material in the tank; the available capacities of neighboring tanks; that a delivery can be made whenever the tank level is in the "delivery zone" (i.e., the amount of material is between the minimum inventory level and the maximum order level, see Figure 4); that a delivery will be made before the tank level reaches the minimum inventory level. Also, the amount of delivery is determined by the available tank capacity; minimum delivery amount for the tank; the maximum delivery amount for the tank; and the available capacities of neighboring tanks (see Col. 9, lines 14-24).

Claim 1 of the present application recites a method of tracking and predicting the capacity utilization of a goods delivery system that includes the step of getting a respective zone maximum and a respective number of used slots for a specified period of time within the respective delivery zone.

Mowery et al. do not describe nor suggest a method as recited in Claim 1. Particularly, Mowery et al. do not describe nor suggest a method that includes the step of getting a respective

zone maximum and a respective number of used slots for a specified period of time within the respective delivery zone. Rather, Mowery et al. describe an inventory control method that monitors product level in customer storage tanks and a delivery scheduling method that utilizes the monitored tank level data. Particularly, as explained on pages 7 and 8 of the present application, the term delivery zone is defined as the broadest geographical area of a delivery agent's territory and includes a zip group where the zip group includes at least one zip code. Also, the maximum number of delivery slots for each delivery day is defined as the total number of slots the delivery agent's vehicles can deliver in the zone and is called the zone maximum. Mowery et al. do not describe nor suggest a zone maximum nor a respective number of used slots for specific period of time. Specifically, Mowery et al. do not describe nor suggest a delivery zone nor the total slots the delivery vehicles can deliver. Mowery et al. use the term "delivery zone" but it does not refer to a geographic area. Rather, as shown in Figure 4, the tank "delivery zone" level is the tank level where the amount of material in the tank is between the minimum inventory level and the maximum order level. Accordingly, Applicant submits that Claim 1 is patentable over Mowery et al.

Claims 2, and 9-11 depend from independent Claim 1. When the recitations of dependent Claims 2, and 9-11 are considered in combination with the recitations of Claim 1, Applicant respectfully submits that Claims 2, and 9-11 likewise are patentable over Mowery et al.

Claim 17 of the present invention recites a computer process that includes the step of getting a respective zone maximum and a respective number of used slots for a specified period of time within the respective delivery zone.

Mowery et al. do not describe nor suggest a computer process as recited in Claim 17. Particularly, and at least for the reasons explained above, Mowery et al. do not describe nor suggest a method that includes the step of getting a respective zone maximum and a respective number of used slots for a specified period of time within the respective delivery zone. Accordingly, Applicant submits that Claim 17 is patentable over Mowery et al.

Claims 18, and 25-27 depend from independent Claim 17. When the recitations of dependent Claims 18, and 25-27 are considered in combination with the recitations of Claim 17, Applicant respectfully submits that Claims 18, and 25-27 likewise are patentable over Mowery et al.

Claim 33 of the present application recites a method of tracking and predicting the capacity utilization of a goods delivery system that includes the step of getting a respective zone maximum and a respective number of used slots for a specified period of time within the respective delivery zone.

Mowery et al. do not describe nor suggest a method as recited in Claim 33. Particularly, and for the reasons explained above, Mowery et al. do not describe nor suggest a method that includes the step of getting a respective zone maximum and a respective number of used slots for a specified period of time within the respective delivery zone. Accordingly, Applicant submits that Claim 33 is patentable over Mowery et al.

Claims 34 and 41-43 depend from independent Claim 33. When the recitations of dependent Claims 34 and 41-43 are considered in combination with the recitations of Claim 33, Applicant respectfully submits that Claims 34 and 41-43 likewise are patentable over Mowery et al.

For the reasons set forth above, Applicant respectfully requests that the Section 102(e) rejection of Claims 1, 2, 9-11, 17-18, 25-27, 33, 34, and 41-43 be withdrawn.

The rejection of Claims 3-8, 12-16, 19-24, 35-40, and 44-48 under 35 U.S.C. § 103(a) as being unpatentable over Mowery et al. is respectfully traversed.

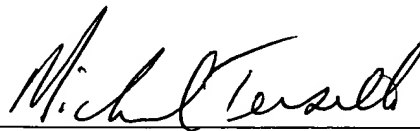
As explained above, independent Claims 1, 17, and 33 are patentable over Mowery et al.

Claims 3-8 and 12-16 depend from independent Claim 1, Claims 19-24 and 28-32 depend from independent Claim 17, and Claims 35-40 and 44-48 depend from independent Claim 33. When the recitations of dependent Claims 3-8 and 12-16, dependent Claims 19-24 and 28-32, and dependent Claims 35-40 and 44-48 are considered in combination with the recitations of Claims 1, 17, and 33 respectively, Applicant respectfully submits that Claims 3-8, 12-16, 19-24, 35-40, and 44-48 likewise are patentable over Mowery et al.

For the reasons set forth above, Applicant respectfully requests that the Section 102(e) rejection of Claims 3-8, 12-16, 19-24, 35-40, and 44-48 be withdrawn.

In view of the foregoing amendments and remarks, all the claims now active in this application are believed to be in condition for allowance. Favorable action is respectfully solicited.

Respectfully submitted,



Michael Tersillo
Registration No. 42,180
ARMSTRONG TEASDALE LLP
One Metropolitan Square, Suite 2600
St. Louis, Missouri 63102-2740
(314) 621-5070



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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Pennisi, Jr. :
Serial No.: 09/475,962 : Art Unit: 3623
Filed: December 30, 1999 : Examiner: B. Van Doren
For: CAPACITY MONITORING SYSTEM FOR :
A GOODS DELIVERY SYSTEM :

SUBMISSION OF MARKED UP CLAIMS

Commissioner for Patents
Washington, D.C. 20231

A marked-up version of amended paragraphs and Claims 2, 3, 6, 19, 22, 34, and 38, in accordance with 37 C.F.R. § 1.121(c)(1)(ii), follows below.

IN THE SPECIFICATION

On page 1, please delete the paragraph starting on line 3 and replace with the following:

This application is related to co-pending U.S. Patent Application[, 9D-EC-19310,] Serial No. [(/ ,)] 09/475,360, entitled "Internet Based Goods Delivery System", filed on December [] 30, 1999, assigned to the assignee of the present invention, and herein incorporated by reference. This application is also related to co-pending U.S. Patent Application[, 9D-EC-19335,] Serial No. [(/ ,)] 09/475,961, entitled "Delivery Management System", filed on December [] 30, 1999, assigned to the assignee of the present invention, and herein incorporated by reference.

On page 5, please delete the paragraph starting on line 5 and replace with the following:

The delivery management system facilitates the scheduling of all deliveries from supplier 152 to buyer 156 by delivery agent 212, based on delivery date selection at the point-of-sale. The point-of-sale may, by way of example and not limitation, be respective store 158, respective

supplier 152, respective delivery agent 212, or respective buyers delivery address. Co-pending U.S. Patent Application [9D-EC-19310, (Serial No. __/ __, __)] Serial No. 09/475,630 provides details of the Internet based goods delivery system. Co-pending U.S. Patent Application [9D-EC-19335, (Serial No. __/ __, __)] Serial No. 09/475,961 provides details of the delivery management system.

On page 5, please delete the paragraph starting on line 13 and replace with the following:

A delivery management system block diagram 200, as illustrated in Figure 3, provides the process that controls the goods delivery system described in co-pending U.S. Patent Application[, 9D-EC-19335, (Serial No. __/ __, __)] Serial No. 09/475,961. Delivery management system 200 facilitates the scheduling of all deliveries from suppliers, to delivery agent locations, then to the buyer or store regardless of goods supplier while allowing for delivery date selection at the point-of-sale. Scheduling is performed by day at a zip code and alternately at a zip group level.

On page 12, please delete the paragraph starting on line 1 and replace with the following:

An alternative embodiment of the process steps for determining capacity utilization is illustrated in Figure 5. In this embodiment rather than workload for all markets being calculated at fixed intervals, the workload of the zone is calculated at the time the order is placed and stored in the electronic manifest. Also, a range of possible delivery dates are provided rather than a single delivery date. First a delivery date request is made, step 220. Next, the zip code is obtained for the order, step 222. Next, the delivery location, delivery agent 212, and supplier 152 is determined, step 224. Next, the first potential arrival date is determined, step 226, as

described earlier. Next, the set of all delivery dates from the first potential arrival date to the requested date is determined (inclusive), step 402. Note step 402 includes all possible delivery dates that have less than 100% workload utilization by zone, but does not include historical dates, i.e., dates in the past. Next, a check is performed to see if the order can fit in each one of the set of delivery dates, and those dates that do not have sufficient workload are identified as a "No", steps 404 and 406. Next, for each day labeled a "No" 100% is added to the previous workload value and the workload is calculated for the next ship day using the equation, $\text{workload} = \text{last workload} + \text{filled slots}/\text{zone maximum}$, steps 314 and 318. Next, the zone workloads are stored in the electronic manifest, step 408. The process is repeated for the zip groups as illustrated in steps 410 and 412. As such, two sets of numbers are provided to the electronic manifest the zone workload and the zip group workload. The delivery Management System identified in co-pending Patent Application[, 9D-EC-19335, (Serial No. __/__, __)] Serial No. 09/475,961 may use this method of determining capacity utilization.

IN THE CLAIMS

2. (amended) The method of tracking capacity as recited in claim 1, wherein the step of updating the respective capacity utilization matrix further comprises the step of calculating the workload utilization and storing the result in a workload [value] value for each of said respective slots within the delivery zone.

3. (amended) The method of tracking capacity as recited in claim [1] 2, wherein the step of calculating the capacity utilization comprises the step of calculating said respective workload value, wherein said respective workload value = (last workload value + (number of filled slots)/(zip group maximum)).

6. (amended) The method of tracking capacity as recited in claim 5, wherein said predetermined over capacity value for the sum of selected designated days in said historical period is about 700 percent and wherein said historical period is the previous ten days and wherein said over capacity value is a workload greater than or equal to 100 percent.

19. (amended) The computer process as recited in claim [17] 18, wherein the step of calculating the capacity utilization comprises the step of calculating said respective workload value, wherein said respective workload value = (last workload value + (number of filled slots)/(zip group maximum)).

22. (amended) The computer process as recited in claim 21, wherein said predetermined over capacity value for the sum of selected designated days in said historical period is about 700 percent and wherein said historical period is the previous ten days and wherein said over capacity value is a workload greater than or equal to 100 percent.

34. (amended) The method of tracking capacity as recited in claim [33] 34, wherein the step of calculating the capacity utilization comprises the step of calculating said respective workload value, wherein said respective workload value = (last workload value + (number of filled slots)/(zip group maximum)).

38. (amended) The method of tracking capacity as recited in claim 37, wherein said predetermined over capacity value for the sum of selected designated days in said historical period is about 700 percent and wherein said historical period is the previous ten days and wherein said over capacity value is a workload greater than or equal to 100 percent.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Michael Tersillo", written over a horizontal line.

Michael Tersillo
Registration No. 42,180
ARMSTRONG TEASDALE LLP
One Metropolitan Square, Suite 2600
St. Louis, Missouri 63102-2740
(314) 621-5070